

Until Thurgood Marshall's appointment to the Supreme Court a generation ago, every Justice throughout our Nation's history had been a white male. President Obama's nomination of you to serve as the first Hispanic and the third woman on the Supreme Court is historic. The President knows and we know that to be the first you have to meet a higher standard. Before you can serve on this Court, the American people, through their elected Senators, will be asked to judge you. We owe it to you and the Constitution to be a fair jury.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you very much, and, Judge, thank you. Enjoy your lunch. We will look forward to coming back. And when you come back, we will hear from Senator Klobuchar, Senator Kaufman, Senator Specter, Senator Franken, and I welcome Senator Franken to the Committee. And we will then have an introduction of you, and what everybody has really been waiting to hear, we will hear from you. So thank you very, very much, Judge.

[Whereupon, at 12:38 p.m., the Committee recessed, to reconvene at 2:00 p.m., this same day.]

Chairman LEAHY. Thank you. If we could get back order in the room.

It's good to have you back here. As I recall, we left at Senator Klobuchar. You're next, and I will yield to Senator Klobuchar.

**STATEMENT OF HON. AMY KLOBUCHAR, A U.S. SENATOR
FROM THE STATE OF MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Mr. Chair.

Welcome back, Judge. It's a pleasure to see you again. I enjoyed our conversation. And what I most remembered about that, is that you confessed to me that you once brought a winter parka to Minnesota in June.

[Laughter].

Senator KLOBUCHAR. And I promise I will not hold that against you during this week.

I know you have many friends and family here, but it was really an honor for me to meet your mom. When President Obama first announced your nomination, I loved the story about how your mom saved all of her money to buy you and your brother the first set of encyclopedias in the neighborhood, and it reminded me of when my own parents brought us Encyclopedia Britannicas. It always held this hallowed place in the hallway, and for me they were a window on the world and a gateway to knowledge, which they clearly were to you as well.

From the time you were nine years old, your mom raised you and your brother on her own. She struggled to buy those encyclopedias on her nurse's salary, but she did it because she believed deeply in the value of education. You went on to be the valedictorian of your high school class and to be tops in your class in college, and go to law school.

After that, and this is an experience that we have in common, you became a local prosecutor. Most of my questions during this hearing will be about opinions you've authored and work that you've done in the criminal area. I believe having judges with real-world front-line experience as prosecutors is a good thing.

When I think about the inspiring journey of your life I'm reminded of other Supreme Court Justices who came from, in your own words, "modest and challenging circumstances". There is Justice O'Connor, who lived the first years of her life in a ranch in Arizona with no running water and no electricity. By sheer necessity, she learned how to mend fences, ride horses, brand cattle, shoot a rifle, and even drive a truck, all before she was 13 years old.

I also think about Justice Thurgood Marshall, who was the great-grandson of a slave. His mother was a teacher, while his father worked as a Pullman car waiter before becoming a steward at an all-white country club. Justice Marshall waited tables to put himself through law school and his mom actually pawned her wedding and engagement rings to get the down payment to send him to Howard University Law School here in Washington.

And then there's Justice Blackman, who grew up in a St. Paul working-class neighborhood in my home State of Minnesota. He was able to attend Harvard College only because at the last minute the Harvard Club of Minnesota got him a scholarship, and then he went on to Harvard where he worked as a tutor and a janitor. Through four years of college and three years of law school, his family was never able to scrape up enough money to bring him back to Minnesota for Christmas.

Each of these very different Justices grew up in challenging circumstances. No one can doubt that for each of these Justices, their life experiences shaped their work and they did—that they did on the Supreme Court. This should be unremarkable and, in fact, it's completely appropriate.

After all, our own Committee members demonstrate the value that comes from members who have different backgrounds and perspectives. For instance, at the same time my accomplished colleague Senator Whitehouse, son of a renowned diplomat, was growing up in Saigon during the Vietnam War, I was working as a car hop at the A&W Rootbeer stand in suburban Minnesota.

And while Senator Hatch is a famed gospel music songwriter, Senator Leahy is such a devoted fan of the Grateful Dead that he once had trouble taking a call from the President of the United States because the Chairman was on stage with the Grateful Dead. [Laughter].

Senator KLOBUCHAR. We have been tremendously blessed on this Committee with the gift of having members with different backgrounds and different experiences, just as different experiences are a gift for any court in this land.

So when one of my colleagues questioned whether you, Judge, would be a Justice for all of us or just for some of us, I couldn't help but remember something that Hubert Humphrey once said. He said, "America is all the richer for the many different and distinctive strands of which it is woven."

Along those lines, Judge, you are only the third woman in history to come before this Committee as a Supreme Court nominee, and as you can see there are currently only two women on this Committee, Senator Feinstein and myself. So I think it's worth remembering that when Justice O'Connor graduated from law school, the only offer she got from law firms were for legal secretary positions. Justice O'Connor, who graduated third in her class from Stanford

Law School, saw her accomplishments reduced to one question: can she type?

Justice Ginsberg faced similar obstacles. When she entered Harvard Law School, she was one of only nine women in a class of more than 500. One professor actually demanded that she justify why she deserved a seat that could have gone to a man. Later, she was passed over for a prestigious clerkship, despite impressive credentials.

Nevertheless, both of them persevered, and they certainly prevailed. Their undeniable merits triumphed over those who sought to deny them opportunity. The women who came before you to be considered by this Committee helped blaze a trail, and although your record stands on your own, you also stand on their shoulders, another woman with an opportunity to be a Justice for all of us.

As Justice Ginsburg's recent comments regarding the strip search of a 13-year-old girl indicate, as well as her dissent in the *Lilly Ledbetter* Equal Pay case, being a Justice for all of us may mean bringing some real-world practical experience into the courthouse.

As we consider your nomination, we know that you are more than a sum of your professional experiences. Still, you bring one of the most wide-ranging legal résumés to this position: local prosecutor, civil litigator, trial judge, and appellate judge. Straight out of law school, you went to work as a prosecutor in the Manhattan D.A.'s office and you ended up staying there for five years.

When you're a prosecutor, the law ceases to be an abstract subject. It's not just a dusty book in the basement. It's real and it has an impact on real people's lives, whether it's victims and their families, defendants and their families, or the neighborhood where you live.

It also has a big impact on the individual prosecutor. You never forget the big and difficult cases. I know in your case, one of those is the serial burglar-turned-murderer, the *Tarzan* murder case. In my case, it was a little girl named Taisha Edwards, an 11-year-old girl shot by stray gang fire as she sat at her kitchen table doing her homework.

As a prosecutor, you don't just have to know the law, you also have to know people. So, Judge, I'm interested in talking to you more about what you've learned from that job and how that job shaped your legal career and your approach to judging.

I'm also interested in learning more about your views on criminal law issues. I want to explore your views on the Fourth Amendment, the confrontation clause, and sentencing law and policy. I'd like to know, in criminal cases as well as in civil cases, how you would balance the text of statutes and the Constitution and the practical things you see out there in the world.

It seems to me in cases like *Falso*, *Santa*, and *Howard* that you have a keen understanding of the real-world implications of your decisions. I often get concerned that those pragmatic experiences are missing in judicial decision-making, especially when I look at the recent Supreme Court case in which the majority broadly interpreted the confrontation clause to include crime lab workers. I agree with the four dissenting Justices that the ruling has vast po-

tential to disrupt criminal procedures that already give ample protections against the misuse of scientific evidence.

Your old boss, Manhattan District Attorney Robert Morgenthau, called you a fearless and effective prosecutor. This is how he put it once in an interview: "We want people with good judgment because a lot of the job of a prosecutor is making decisions. I also want to see some signs of humility in anybody that I hire. We're giving young lawyers a lot of power and we want to make sure that they're going to use that power with good sense and without arrogance."

These are among the very qualities I'm looking for in a Supreme Court Justice. I, too, am looking for a person with good judgment, someone with intellectual curiosity and independence, but who also understands that her judicial decisions affect real people.

With that, I think, comes the second essential quality: humility. I'm looking for a Justice who appreciates the awesome responsibility that she will be given, if confirmed, a Justice who understands the gravity of the office and who respects the very different roles that the Constitution provides for each of the three branches of government.

Finally, a good prosecutor knows that her job is to enforce the law without fear or favor; likewise, a Supreme Court Justice must interpret the law without fear or favor. And I believe your background and experiences, including your understanding of front-line law enforcement, will help you to always remember that the cases you hear involve real people with real problems who are looking for real remedies.

With excellent justice and excellent judgment, and a sense of humility, I believe you can be a Justice for all of us.

Thank you very much.

Chairman LEAHY. Thank you, Senator Klobuchar.

Next, Senator Kaufman.

**STATEMENT OF HON. EDWARD E. KAUFMAN, A U.S. SENATOR
FROM THE STATE OF DELAWARE**

Senator KAUFMAN. Thank you, Mr. Chairman.

Welcome, Judge Sotomayor, and welcome to your family and friends. Congratulations on your nomination, and congratulations to your parents, who did such a good job on raising you to get to where you are today.

We are beginning—now beginning the end of an extraordinarily important process, to confirm a Supreme Court Justice of the United States. Short of voting to go to war, the Senate's constitutional obligation to advise and consent on Supreme Court nominees is probably our most important responsibility.

Supreme Court Justices serve for life, and once the Senate confirms a nominee she is likely to be affecting the law and American lives much longer than many of the Senators who are here to confirm her. The advise-and-consent process for the nomination began after Justice Souter announced his intent to resign and President Obama consulted with members of both parties before making his selection.

It has continued since then with the help from extensive public debate among analysts and commentators, scholars and activists,